

*City of Las Vegas*

**AGENDA MEMO**

**PLANNING COMMISSION MEETING DATE: OCTOBER 22, 2009**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: ABEYANCE - VAR-35528 - APPLICANT/OWNER:  
BODYFLYING US, LLC**

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**\*\* CONDITIONS \*\***

**STAFF RECOMMENDATION: DENIAL.** If Approved, subject to:

**Planning and Development**

1. Conformance to the conditions for Site Development Plan Review (SDR-35186) if approved.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

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**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

The subject site consists of two separate parcels and is partially developed. Currently, the northern portion of the site is being utilized by a 3,475 square-foot medical office building, while the southern portion remains undeveloped, generally located adjacent to the north side of Sahara Avenue, approximately 440 feet east of Sixth Street. The applicant is proposing to add a 9,979 square-foot Commercial Recreation/Amusement (Indoor) building at the site. The proposed and existing uses will require 69 parking spaces where 59 will be provided. Staff cannot support this request as the applicant has not provided compelling evidence of a unique or extraordinary circumstance, and has created a self-imposed hardship by proposing to overbuild the site; therefore, staff recommends denial of this request. If this request is denied, an alternate site design will be required to provide parking for all proposed uses in accordance with Title 19.04 and 19.10. In addition, the associated Site Development Plan Review (SDR-35186) for a 9,979 square-foot Commercial Recreation/Amusement (Indoor) building at the site cannot be approved.

**ISSUES**

- The proposed development fails to meet the minimum parking requirements listed in Title 19.04.010 for the proposed use.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc. and Property Sales</i></b>	
05/17/06	The City Council approved a request for a General Plan Amendment (GPA-9219) to change the Future Land Use designation to Commercial, Mixed Use, Industrial or Public Facilities on various parcels located within the proposed Las Vegas Redevelopment Plan area and within the proposed Redevelopment Plan expansion area. The Planning Commission and staff recommended approval of the request.
08/23/07	The Planning Commission tabled a request for a Site Development Plan Review (SDR-22017) for a proposed 98-foot tall, 12,452 square-foot commercial recreation/ amusement (Indoor) facility with waivers of perimeter landscaping standards to allow five feet on the south property line where 15 feet is required and zero feet on the north, east and west property lines where eight feet is required; and a request for a Variance (VAR-22018) to allow 28 parking spaces where 63 spaces is the minimum required for a proposed commercial recreation/ amusement (Indoor) facility adjacent to the north side of Sahara Avenue, approximately 420 feet east of Sixth Street. Staff recommended denial of the request.

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<b><i>Related Building Permits/Business Licenses</i></b>	
Circa 1969	Office building located at 738 East Sahara Avenue on APN 162-03-801-088 was constructed.
03/18/02	A business license (T18-00499) was issued for Miscellaneous Telephone Sales and (U05-00244) for a Public Utility Telephone at 738 East Sahara Boulevard, Suite #104. These licenses are still active.
06/06/02	A business license (B20-00414) was issued for Business Support Services at 738 East Sahara Boulevard, Suite #B. This license was marked out of business on 08/10/07.
08/09/07	A business license (I04-03459) was issued for an Insurance Producer and (K10-00257) for a Sales and Service Firm at 738 East Sahara Boulevard, Suite #B. These licenses are still active.
09/30/08	A business license (Q07-00825) was issued for a medical firm at 738 East Sahara Boulevard. This license is still active.
<b><i>Pre-Application Meeting</i></b>	
06/29/09	A pre-application meeting was held and elements of this application were discussed. It was noted that there would need to be landscape waivers added to the justification letter and that a parking Variance may be required.

<b><i>Neighborhood Meeting</i></b>	
10/07/09	<p>A voluntary neighborhood meeting was held from 6:00 to 7:10 pm at the Mesquite Club located at 702 East St. Louis Avenue, Las Vegas, Nevada 89104. There were 20 attendees for the general public, and one (1) staff member of the Planning and Development Department. Discussion topics included:</p> <p>Reviewed Project:</p> <ul style="list-style-type: none"> <li>• Predominately by appointment only</li> <li>• Training video &amp; personal approximately 25 minutes</li> <li>• 20 minutes to “suit up”</li> <li>• 3 minutes in the wind</li> <li>• Approximately 20% local, 80% tourists</li> <li>• Approximately 6 employees</li> <li>• Fan surrounded by concrete, takes in no external air</li> <li>• 8:00am – 11:00am Skydiving</li> <li>• 11:00am – 10:00pm Public</li> </ul> <p>Concerns &amp; Questions:</p> <ul style="list-style-type: none"> <li>• Noise</li> <li>• Vibration</li> <li>• Driveway width</li> <li>• Bus traffic</li> <li>• Large crowds at a time</li> </ul>

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	<ul style="list-style-type: none"> <li>• Noise in parking lot from patrons</li> <li>• Limo's idling in parking lot</li> <li>• Decibel levels</li> <li>• Signage being overly large</li> <li>• Height of building</li> </ul> <p>Conclusion:  Approximately 1/3 in favor  1/3 opposed  1/3 no comment</p>
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<b>Field Check</b>	
08/20/09	A site inspection was performed by staff with the following observations: <ul style="list-style-type: none"> <li>• The subject site has been developed with a medical office building on the northern portion of the site, while the southern portion of the site adjacent to Sahara Avenue remains undeveloped with scattered debris.</li> </ul>

<b>Details of Application Request</b>	
<b>Site Area</b>	
Gross Acres	0.81 Acres

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Medical Office Building and Undeveloped	C (Commercial)	C-1 (Limited Commercial)
North	Office Building	C (Commercial)	C-1 (Limited Commercial)
South	Multi-Family Residences	CT (Commercial Tourist) - Clark County Designation	H-1 (Limited Resort and Apartment) - Clark County Designation
East	General Retail	C (Commercial)	C-1 (Limited Commercial)
West	Restaurant and General Retail	C (Commercial)	C-1 (Limited Commercial)

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<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Area Plan</b>			
Redevelopment Plan Area	X		Y
Beverly Green/Southridge Neighborhood	X		Y
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Purpose and Overlay Districts</b>			
A-O (Airport Overlay) District – (175 Feet)	X		Y
<b>Trails</b>		X	N/A
<b>Rural Preservation Overlay District</b>		X	N/A
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

**DEVELOPMENT STANDARDS**

*Pursuant to Title 19.10, the following parking standards apply:*

As shown in Table 14-12, the following parking standards apply:

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Medical Office	3,475 S.F.	1:200 for the first 2,000 sq. ft. 1:175 for the remaining gross floor area	19		56	3	N
Commercial Recreation / Amusement (Indoor)	9,979 S.F.	1:200	50				
SubTotal	13,454 S.F.		66	3	56	3	
TOTAL	13,454 S.F.		69		59		
Percent Deviation					14%		

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## **ANALYSIS**

The applicant has proposed to build a 9,979 square-foot Commercial Recreation/Amusement (Indoor) facility consisting of a 79-foot tall, cylindrical building for a wind tunnel with an attached six floors of public and mechanical areas with ground level parking on 0.81 acres adjacent to the north side of Sahara Avenue, approximately 440 feet east of Sixth Street. The applicant has indicated that the proposed commercial recreation/amusement (indoor) facility will be utilized by no more than 26 people in an hour, consisting of six staff members and twenty (20) guests. Guests of the proposed facility must receive instruction and special clothing prior to flying, which limits the number of people who can utilize the facility at the same time.

The existing and proposed uses on the subject site require 69 parking spaces where 59 are proposed, which represent a 14% deviation from Title 19 requirements. The 14% reduction in required parking indicates that the site, as proposed, would be overbuilt. Furthermore, the proposed deficiency is preferential in nature and as such, the applicant has created a self-imposed hardship that staff cannot support; therefore, staff is recommending denial of this request.

## **FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by proposing to overbuild the site. Alternatively site design or a reduction in the scope of the project would allow conformance to Title 19 parking requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

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**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 11

**ASSEMBLY DISTRICT** 9

**SENATE DISTRICT** 10

**NOTICES MAILED** 183

**APPROVALS** 3

**PROTESTS** 60